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AMENDED IN SENATE JULY 3, 2003

AMENDED IN SENATE JUNE 19, 2003

AMENDED IN ASSEMBLY JUNE 2, 2003

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CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1628

Introduced by Assembly Member Frommer

February 21, 2003

An act to amend ~~Sections 1262.5 and 1371.4 of~~ *Section 1371.4 of*,
and to add Section 1262.8 to, the Health and Safety Code, relating to
health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1628, as amended, Frommer. Health care.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, regulates and licenses health care service plans by the Department of Managed Health Care and makes the willful violation of the act a crime. The act authorizes a health care service plan to require prior authorization as a prerequisite for payment for necessary medical care following stabilization of an emergency medical condition.

This bill would require a noncontracting hospital to contact an enrollee's health care service plan to obtain the enrollee's medical record information prior to admitting the enrollee as an inpatient for poststabilization ~~treatment following emergency treatment, or prior to~~ care, or transferring an enrollee to a noncontracting hospital for poststabilization ~~treatment following emergency treatment~~ care, under specified conditions. The bill would impose specified duties on a health care service plan after being contacted by a hospital under these circumstance and would require the plan in designated situations to reimburse the hospital for ~~all medically necessary~~ poststabilization ~~services~~ care rendered to an enrollee. The bill would require a noncontracting hospital that admits an enrollee who is not stabilized to contact the enrollee's health care service plan as soon as reasonably possible after the condition is stabilized. The bill would prohibit a hospital that is required to contact the patient's health care service plan, and fails to do so, from billing the patient for poststabilization ~~services~~ care.

Because a violation of the bill would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) It is the intent of the Legislature in enacting
- 2 this act to protect patients with health benefits coverage from being
- 3 billed in the event of a dispute between a hospital and a health care
- 4 service plan, where the hospital has not contacted the health care
- 5 service plan to access a patient's medical record and the health care
- 6 service plan makes the record available.
- 7 (b) It is not the Legislature's intent to change the existing law
- 8 concerning the duties of a hospital or physician and surgeon to a
- 9 patient who presents in an emergency department of a licensed
- 10 hospital.



1 (c) It is not the Legislature's intent to change existing law
2 concerning the responsibilities that a health care service plan and
3 an emergency health care provider, including a hospital, have in
4 relation to each other, including the duty to reimburse for services
5 provided.

6 (d) It is not the Legislature's intent to impair the ability of
7 emergency physicians to provide emergency services and prompt
8 care in accordance with the medical needs of their patients.

9 ~~SEC. 2. Section 1262.5 of the Health and Safety Code is~~
10 ~~amended to read:~~

11 ~~1262.5. (a) Each hospital shall have a written discharge~~
12 ~~planning policy and process.~~

13 ~~(b) The policy required by subdivision (a) shall require that~~
14 ~~appropriate arrangements for posthospital care, including, but not~~
15 ~~limited to, care at home, in a skilled nursing or intermediate care~~
16 ~~facility, or from a hospice, are made prior to discharge for those~~
17 ~~patients who are likely to suffer adverse health consequences upon~~
18 ~~discharge if there is no adequate discharge planning. If the hospital~~
19 ~~determines that the patient and family members or interested~~
20 ~~persons need to be counseled to prepare them for posthospital care,~~
21 ~~the hospital shall provide for that counseling.~~

22 ~~(c) The process required by subdivision (a) shall require that~~
23 ~~the patient be informed, orally or in writing, of the continuing~~
24 ~~health care requirements following discharge from the hospital.~~
25 ~~The right to information regarding continuing health care~~
26 ~~requirements following discharge shall apply to the person who~~
27 ~~has legal responsibility to make decisions regarding medical care~~
28 ~~on behalf of the patient, if the patient is unable to make those~~
29 ~~decisions for himself or herself. In addition, a patient may request~~
30 ~~that friends or family members be given this information, even if~~
31 ~~the patient is able to make his or her own decisions regarding~~
32 ~~medical care.~~

33 ~~(d) (1) A transfer summary shall accompany the patient upon~~
34 ~~transfer to a skilled nursing or intermediate care facility or to the~~
35 ~~distinct part skilled nursing or intermediate care service unit of the~~
36 ~~hospital. The transfer summary shall include essential information~~
37 ~~relative to the patient's diagnosis, hospital course, pain treatment~~
38 ~~and management, medications, treatments, dietary requirement,~~
39 ~~rehabilitation potential, known allergies, and treatment plan, and~~
40 ~~shall be signed by the physician.~~

~~(2) A copy of the transfer summary shall be given to the patient and the patient's legal representative, if any, prior to transfer to a skilled nursing or intermediate care facility.~~

~~(e) A hospital shall establish and implement a written policy to ensure that each patient receives, at the time of discharge, information regarding each medication dispensed, pursuant to Section 4074 of the Business and Professions Code.~~

~~(f) A contract between a general acute care hospital and a health care service plan that is issued, amended, renewed, or delivered on or after January 1, 2002, may not contain a provision that prohibits or restricts any health care facility's compliance with the requirements of this section.~~

~~(g) If a representative of a hospital fails to call a health care service plan to obtain the medical record of an enrollee of that health care service plan who is being treated in the hospital's emergency department prior to admitting the enrollee for poststabilization care as an inpatient or prior to transferring the enrollee for poststabilization care to another hospital, pursuant to subdivision (j) of Section 1371.4, the hospital shall not bill the patient for any medical services provided following stabilization.~~

SEC. 2. Section 1262.8 is added to the Health and Safety Code, to read:

1262.8. (a) A hospital shall contact an enrollee's health care service plan to obtain the enrollee's medical record information prior to admitting the enrollee for poststabilization care as an inpatient, or prior to transferring the enrollee for poststabilization care to a noncontracting hospital, or for poststabilization care of an enrollee who was admitted to a noncontracting hospital for medically necessary care prior to stabilization of an emergency medical condition, if all of the following apply:

(1) The hospital is able to obtain the name of the enrollee's health care service plan.

(2) The hospital is a noncontracting California hospital with a noncontracting physician and surgeon who wants to do any of the following:

(A) Admit the enrollee as an inpatient in a noncontracting hospital for poststabilization care following the provision of emergency services and care.

1 (B) Transfer the enrollee to a noncontracting hospital for
2 poststabilization care following the provision of emergency
3 services and care.

4 (C) Provide poststabilization care to an enrollee who was
5 admitted to a noncontracting hospital for medically necessary
6 care prior to stabilization of an emergency medical condition.

7 (3) The health care service plan has a physician and surgeon
8 who is regularly assigned to provide emergency services and care
9 in a basic or comprehensive emergency department, who is
10 available within 30 minutes of the time the hospital contacts the
11 health care service plan by telephone, and who has all of the
12 following:

13 (A) Has immediate access to the enrollee's medical records.

14 (B) Has the ability to promptly discuss the enrollee's records
15 with the noncontracting physician and surgeon or appropriate
16 hospital representative, if the noncontracting physician and
17 surgeon or appropriate hospital representative requests that
18 discussion.

19 (C) Has the ability to transmit the appropriate portion of the
20 records requested by the noncontracting physician and surgeon or
21 appropriate hospital representative to the hospital via facsimile
22 transmission or electronic mail in a manner that complies with all
23 legal requirements to protect the enrollee's privacy.

24 (4) The health care service plan can provide authorization for
25 poststabilization care and provide information concerning cost
26 sharing that the noncontracting hospital may charge the enrollee
27 under the enrollee's coverage.

28 (b) A hospital required to contact an enrollee's health care
29 service plan pursuant to this section shall do so as soon as
30 reasonably possible, but not until the enrollee's medical condition
31 is stabilized, as determined by the noncontracting physician and
32 surgeon at the time the emergency services and care are rendered.

33 (c) If a hospital required to contact an enrollee's health care
34 service plan pursuant to this section fails to do so, the hospital
35 shall not bill the enrollee for poststabilization care.

36 (d) Subdivisions (a), (b), and (c) do not apply to a physician
37 and surgeon providing medical services at the hospital.

38 (e) For purposes of this section, a representative of the hospital
39 or noncontracting physician and surgeon is not required to make
40 more than one telephone call to the number provided in advance

1 *by the health care service plan. The representative of the hospital*
2 *who makes the telephone call may be, but is not required to be, a*
3 *physician and surgeon.*

4 (f) *For purposes of this section, ‘poststabilization care’ means*
5 *necessary medical care following stabilization of an emergency*
6 *medical condition.*

7 SEC. 3. Section 1371.4 of the Health and Safety Code is
8 amended to read:

9 1371.4. (a) A health care service plan, or its contracting
10 medical providers, shall provide 24-hour access for enrollees and
11 providers to obtain timely authorization for medically necessary
12 care, for circumstances where the enrollee has received emergency
13 services and care is stabilized, but the treating provider believes
14 that the enrollee may not be discharged safely. A physician and
15 surgeon shall be available for consultation and for resolving
16 disputed requests for authorizations. A health care service plan
17 that does not require prior authorization as a prerequisite for
18 payment for necessary medical care following stabilization of an
19 emergency medical condition or active labor need not satisfy the
20 requirements of this subdivision.

21 (b) A health care service plan shall reimburse providers for
22 emergency services and care provided to its enrollees, until the
23 care results in stabilization of the enrollee, except as provided in
24 subdivision (c). As long as federal or state law requires that
25 emergency services and care be provided without first questioning
26 the patient’s ability to pay, a health care service plan shall not
27 require a provider to obtain authorization prior to the provision of
28 emergency services and care necessary to stabilize the enrollee’s
29 emergency medical condition.

30 (c) Payment for emergency services and care may be denied
31 only if the health care service plan reasonably determines that the
32 emergency services and care were never performed; provided that
33 a health care service plan may deny reimbursement to a provider
34 for a medical screening examination in cases when the plan
35 enrollee did not require emergency services and care and the
36 enrollee reasonably should have known that an emergency did not
37 exist. A health care service plan may require prior authorization as
38 a prerequisite for payment for necessary medical care following
39 stabilization of an emergency medical condition.



1 (d) If there is a disagreement between the health care service
2 plan and the provider regarding the need for necessary medical
3 care, following stabilization of the enrollee, the plan shall assume
4 responsibility for the care of the patient either by having medical
5 personnel contracting with the plan personally take over the care
6 of the patient within a reasonable amount of time after the
7 disagreement, or by having another general acute care hospital
8 under contract with the plan agree to accept the transfer of the
9 patient as provided in Section 1317.2, Section 1317.2a, or other
10 pertinent statute. However, this requirement shall not apply to
11 necessary medical care provided in hospitals outside the service
12 area of the health care service plan. If the health care service plan
13 fails to satisfy the requirements of this subdivision, further
14 necessary care shall be deemed to have been authorized by the
15 plan. Payment for this care may not be denied.

16 (e) A health care service plan may delegate the responsibilities
17 enumerated in this section to the plan's contracting medical
18 providers.

19 (f) Subdivisions (b), (c), (d), (g), and (h) shall not apply with
20 respect to a nonprofit health care service plan that has 3,500,000
21 enrollees and maintains a prior authorization system that includes
22 the availability by telephone within 30 minutes of a practicing
23 emergency department physician.

24 (g) The Department of Managed Health Care shall adopt by
25 July 1, 1995, on an emergency basis, regulations governing
26 instances when an enrollee requires medical care following
27 stabilization of an emergency medical condition, including
28 appropriate timeframes for a health care service plan to respond to
29 requests for treatment authorization.

30 (h) The Department of Managed Health Care shall adopt, by
31 July 1, 1999, on an emergency basis, regulations governing
32 instances when an enrollee in the opinion of the treating provider
33 requires necessary medical care following stabilization of an
34 emergency medical condition, including appropriate timeframes
35 for a health care service plan to respond to a request for treatment
36 authorization from a treating provider who has a contract with a
37 plan.

38 (i) The definitions set forth in Section 1317.1 shall control the
39 construction of this section.

~~(j) (1) A hospital shall contact an enrollee's health care service plan to obtain the enrollee's medical record information prior to admitting the enrollee for poststabilization care as an inpatient or prior to transferring the enrollee for poststabilization care to another hospital, if all of the following apply:~~

~~(A) The hospital is able to obtain the name of the enrollee's health care service plan.~~

~~(B) The hospital is a noncontracting California hospital with a noncontracting physician and surgeon that wants to admit the enrollee as an inpatient in a noncontracting hospital for poststabilization care following the provision of emergency services, or wants to transfer the enrollee to a noncontracting hospital for poststabilization care following the provision of emergency services.~~

~~(C) The health care service plan has a practicing emergency physician who is available within 30 minutes of the time the hospital contacts the health care service plan by telephone, and the physician:~~

~~(i) Has immediate access to the enrollee's medical records.~~

~~(ii) The ability to promptly discuss those records with the patient's treating physician, if the emergency physician requests that discussion.~~

~~(iii) The ability to transmit the appropriate portion of the records requested by the physician to the hospital via facsimile transmission or electronic mail in a manner that complies with all legal requirements to protect the enrollee's privacy.~~

~~(D) The health care service plan can provide authorization for poststabilization care and obtain information concerning cost sharing that the noncontracting hospital may charge the enrollee under the enrollee's coverage.~~

~~(2)~~

~~(j) (1) A health care service plan contacted by a hospital pursuant to this subdivision Section 1262.8 shall, within 30 minutes of the time the hospital makes the initial telephone call requesting information, do all of the following:~~

~~(A) Discuss the enrollee's medical record with the noncontracting physician and surgeon or an appropriate representative of the hospital.~~

~~(B) Transmit any appropriate portion of the enrollee's medical record requested by the hospital's appropriate hospital~~

1 representative or the ~~treating physician~~ *noncontracting physician*
2 *and surgeon* to the hospital by facsimile transmission or electronic
3 mail, whichever method is requested by the ~~hospital's~~
4 ~~representative or the treating physician~~ *appropriate hospital*
5 *representative or the noncontracting physician and surgeon*. The
6 health care service plan shall transmit the record in a manner that
7 complies with all legal requirements to protect the enrollee's
8 privacy.

9 (C) Either authorize poststabilization care or inform the
10 hospital that it will arrange for the prompt transfer of the enrollee
11 to another hospital.

12 ~~(3) A hospital required to contact an enrollee's health care~~
13 ~~service plan pursuant to this subdivision shall do so as soon as~~
14 ~~reasonably possible, but not until the enrollee's medical condition~~
15 ~~is stabilized, as determined by the treating physician at the time the~~
16 ~~emergency services are rendered.~~

17 ~~(4) If a hospital required to contact an enrollee's health care~~
18 ~~service plan pursuant to this subdivision fails to do so, the hospital~~
19 ~~shall not bill the enrollee for medical services provided following~~
20 ~~stabilization.~~

21 ~~(5)~~

22 (2) A health care service plan contacted by a hospital pursuant
23 ~~to this subdivision shall reimburse the hospital for all medically~~
24 ~~necessary poststabilization services rendered to the enrollee if any~~
25 ~~to Section 1262.8 shall reimburse the hospital for poststabilization~~
26 ~~care rendered to the enrollee if any~~ of the following occur:

27 (A) The health care service plan authorizes the hospital to
28 provide poststabilization ~~services~~ *care*.

29 (B) The health care service plan does not respond to the
30 hospital's initial contact or does not make a decision regarding
31 whether to authorize poststabilization ~~services~~ *or to transfer the*
32 ~~enrollee as set forth in paragraph (2): care or to promptly transfer~~
33 ~~the enrollee within the timeframe set forth in paragraph (1).~~

34 (C) There is an unreasonable delay in the transfer of the
35 enrollee, and the ~~treating physician determines that the enrollee~~
36 ~~requires additional medically necessary services.~~

37 ~~(6) Paragraphs (1), (2), (3), (4), and (5) do not apply to~~
38 ~~physicians providing medical services at the hospital.~~

39 ~~(7) For purposes of this subdivision, a representative of the~~
40 ~~hospital is not required to make more than one telephone call to the~~

1 *enrollee, and the noncontracting physician and surgeon*
2 *determines that the enrollee requires poststabilization care.*

3 *(3) Paragraphs (1) and (2) do not apply to a physician and*
4 *surgeon who provides medical services at the hospital.*

5 *(4) A health care service plan shall not require a hospital*
6 *representative or a noncontracting physician and surgeon to make*
7 *more than one telephone call pursuant to Section 1262.8 to the*
8 *number provided in advance by the health care service plan. The*
9 *representative of the hospital that makes the telephone call may be,*
10 *but is not required to be, a physician and surgeon.*

11 ~~(8)~~
12 *(5) An enrollee who is billed by a hospital in violation of this*
13 *subdivision Section 1262.8 may report receipt of the bill to the*
14 *health care service plan and the department. The department shall*
15 *forward that report to the State Department of Health Services.*

16 *(6) For purposes of this section, 'poststabilization care' means*
17 *medically necessary care following stabilization of an emergency*
18 *medical condition.*

19 SEC. 4. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.

